

REMARKS/ARGUMENTS

In the Examiner's October 24, 2003 Office Action, the Examiner first stated that the trademark LUMONICS HY 400 should be capitalized wherever it appears and accompanied by the generic terminology. In response to the Examiner's statement, Applicant has amended the specification to comply with the proper use of the trademark LUMONICS.

Claims 31, 32, 36, 37, 41 and 45-47 stand rejected under 35 U.S.C. §102(a) as being anticipated by Nelson et al. (Mass Spectrometric Immunoassay, Analytical Chemistry 1995, 67, 1153-1158) (hereinafter "Nelson"). Applicants respectfully traverse this rejection.

Under 35 U.S.C. §102(a), a person is entitled to a patent unless the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the Applicant for a patent. The Nelson journal article cited by the Examiner does not constitute a description of the invention in a printed publication before the invention was made by Applicants in that Applicants are the authors of the journal article and Applicants conceived their invention before the publication of their journal article.

It should be noted that Mr. Allan L. Bieber, who is also noted as an author of the Nelson reference did not take part in the conception of the subject matter disclosed and claimed in the instant application and instead provided materials for carrying out and performing experimental protocols that were determined by the inventors listed in the subject application. Mr. Bieber's declaration attesting to these facts is attached hereto. Accordingly, claims 31, 32, 36, 37 and 41-47 are not anticipated by Nelson and Applicants respectfully request the withdrawal of the Examiner's rejection under 35 U.S.C. §102(a).

Claims 34, 39 and 43 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Nelson* in view of *Papac et al.* (Direct analysis of Affinity-Bound analytes by MALDI/TOF MS, Analytical Chemistry 194, 66, 2609-2613) (hereinafter "*Papac*"). Claims 33, 38 and 42 also stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Nelson* in view of *Raybuck et al.*, U.S. Patent No. 5,833,927, issued November 10, 1998 (hereinafter "*Raybuck*"). Finally, claims 35, 40 and 44 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Nelson* in view of *Papac* as applied to claims 31, 32, 34, 36, 37, 39, 41 and 43 above, and further in view

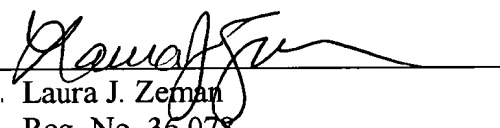
of *Raybuck*. Applicants respectfully traverse all of the Examiner's 35 U.S.C. §103(a) rejections.

As previously pointed out above with reference to the Examiner's 35 U.S.C. Sec. 102(a) rejection, the *Nelson* reference does not constitute prior art for purposes of the Examiner's 35 U.S.C. Sec. 103(a) rejections because the *Nelson* publication was authored by the inventors and the inventors conceived of the invention prior to the publication. Accordingly, if the *Nelson* reference is removed from the Examiner's 35 U.S.C. Sec. 103(a) rejections, it would clearly not have been obvious to one of ordinary skill in the art to arrive at Applicants' claimed invention. Therefore, Applicants respectfully request the withdrawal of the Examiner's 35 U.S.C. Sec. 103(a) rejections.

In view of the foregoing, Applicants respectfully submit that all of the pending claims fully comply with 35 U.S.C. §112 and are allowable over the prior art of record. Reconsideration of the application and allowance of all pending claims is earnestly solicited. Should the Examiner wish to discuss any of the above in greater detail or deem that further amendments should be made to improve the form of the claims, then the Examiner is invited to telephone the undersigned at the Examiner's convenience.

Respectfully submitted,

By: _____


Laura J. Zeman
Reg. No. 36,078

SNELL & WILMER L.L.P.
One Arizona Center
400 East Van Buren
Phoenix, Arizona 85004-2202
Telephone: (602) 382-6377
Facsimile: (602) 382-6070